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| 0001/PTO Rev. 10/95 TRANSMITTAL FORM (to be used for all correspondence during pendency of filed application) | Application Number | 09/816,242 | |
| | Filing Date | March 23, 2001 | |
| | First Named Inventor | David A. Pechner | |
| | Group Art Unit Number | 2665 | |
| | Examiner Name | Huy Duy Vu | |
| Total Number of Pages in This Submission | 5 | Attorney Docket Number | 20852-05747 |

| ENCLOSURES (check all that apply) | |
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|--------------------------------|----------------------------------|--------|--------------|
| Signature: | | | |
| Attorney/Reg. No.: | Michael W. Farn, Reg. No. 41,015 | Dated: | JUNE 9, 2004 |

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| Typed or Printed Name: | Michael W. Farn | Dated: | JUNE 9, 2004 |
| Express Mail Mailing Number (optional): | | | |

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): David A. Pechner, Laurence J. Newell and Mark D. Konezny
APPLICATION NO.: 09/816,242
FILING DATE: March 23, 2001
TITLE: Through-timing of data transmitted across an optical
communications system utilizing frequency division multiplexing
EXAMINER: Huy Duy Vu
GROUP ART UNIT: 2665
ATTY. DKT. NO.: 20852-05747

CERTIFICATE OF MAILING

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FIFTH INFORMATION DISCLOSURE STATEMENT

Under 37 CFR §§ 1.56 and 1.97-98

SIR:

Pursuant to the provisions of 37 CFR §§ 1.56 and 1.97-98, enclosed herewith is modified form PTO/SB/08A listing references for consideration by the Examiner. Please advise if you wish to have copies of any listed U.S. patents.

The filing of this Information Disclosure Statement shall not be construed as a representation regarding the completeness of the list of references, or that inclusion of a reference in this list is an admission that it is prior art or is pertinent to this application, or that a search has been made, or as an admission that the information listed is, or may be considered to be, material to patentability, or that no other material information exists, and shall not be construed as an admission against interest in any manner.

This Information Disclosure Statement is being filed:

- ☒ within three months of the filing date of the application, or date of entry into the national stage of an international application, or before the mailing date of a first office action on the merits, whichever event last occurred;

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- ☐ before the mailing of a first official action after the filing of a request for continued examination (RCE) under 37 CFR § 1.114;
- ☐ after three months of the filing date of this national application or the date of entry of the national stage in an international application, or after the mailing date of the first official action on the merits, whichever event last occurred, but before the mailing date of the first to occur of either: (1) a final action under 37 CFR § 1.113; or (2) an action that otherwise closes prosecution in the application, and:
 - ☐ attached hereto is the fee set forth under 37 CFR § 1.17(p) for submission of this Information Disclosure Statement under 37 CFR § 1.97(c); OR
 - ☐ Applicant certifies pursuant to 37 CFR § 1.97(e) that:
 - ☐ each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement; OR
 - ☐ no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the person signing this certification after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated under 37 CFR § 1.56(c) more than three months prior to the filing of this Statement;
- ☐ on or before the payment of the issue fee but after the mailing date of the first to occur of either: (1) a final action under 37 CFR § 1.113; (2) a notice of allowance under 37 CFR § 1.311; or (3) an action that otherwise closes prosecution in the application, and:
 - ☐ Applicant certifies pursuant to 37 CFR § 1.97(e) that:
 - ☐ each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Statement; or
 - ☐ no item of information contained in this Information Disclosure Statement was cited in a communication from a

foreign patent office in a counterpart foreign application and, to the knowledge of the person signing this certification after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated under 37 CFR § 1.56(c) more than three months prior to the filing of this Statement; AND

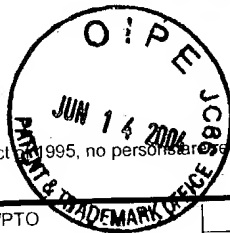
- ☐ attached hereto is the fee set forth under 37 CFR §1.17(p) for submission of this Information Disclosure Statement under 37 CFR. § 1.97(c); OR
- ☐ after the payment of the issue fee. Applicant requests that the information contained in this Information Disclosure Statement be placed in the file according to 37 CFR § 1.97(i), although the information may not be considered by the USPTO.
- ☐ This application relies, under 35 U.S.C. § 120, on the earlier filing date of prior application No. APPLICATION NO., filed on DATE FILED, and the references cited therein are hereby referenced, but are not required to be provided in this application under 37 CFR § 1.98(d).
- ☐ Each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not received by any individual designated in 37 CFR § 1.56(c) more than thirty days prior to the filing of this Information Disclosure Statement. 37 CFR § 1.704(d).
- ☒ Applicant submits that no fee is required for the consideration of this Information Disclosure Statement.

Consideration of the listed references and favorable action are solicited.

Respectfully submitted,
DAVID A. PECHNER et al.

Dated: JUNE 9, 2004

By: Michael W. Farn
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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT****Complete if Known**

| | |
|------------------------|------------------|
| Application No. | 09/816,242 |
| Filing Date | March 23, 2001 |
| First Named Inventor | David A. Pechner |
| Art Unit | 2665 |
| Examiner Name | Huy Duy Vu |
| Attorney Docket Number | 20852-05747 |

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U.S. PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Document No. Number - Kind Code ² (if known) | Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document |
|--------------------|-----------------------|--|--------------------|--|
| | | US-5,339,184 A | 08-16-1994 | Tang |
| | | US-5,459,607 A | 10-17-1995 | Fellows et al. |
| | | US-6,160,649 A | 12-12-2000 | Horiuchi et al. |
| | | US-6,430,148 B1 | 08-06-2002 | Ring |
| | | US-6,529,303 B1 | 03-04-2003 | Rowan et al. |
| | | US-6,643,470 B1 | 11-04-2003 | Iida et al. |

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FOREIGN PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Foreign Patent Document Country Code ³ - Number ⁴ Kind Code ⁵ (if known) | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | T ⁶ |
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OTHER REFERENCES - NON-PATENT LITERATURE DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published | T ⁶ |
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Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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